



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2015-0089; FRL-9928-65-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Biomass Fuel-Burning Equipment Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Maryland. This revision pertains to a new regulation for biomass fuel-burning equipment and related amendments to existing regulations. This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on **[insert date 30 days after publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2015-0089. All documents in the docket are listed in the www.regulations.gov website. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection

Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: Irene Shandruk, (215) 814-2166, or by e-mail at shandruk.irene@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Biomass materials, which include wood residue and wood products, animal manure (including litter and other bedding materials), vegetative agricultural materials as well as silvicultural materials, can be used as fuel burned to provide heat and power. New technologies and environmental initiatives have recently increased the use of biomass material for combustion in the State of Maryland. Therefore, the Maryland Department of the Environment (MDE) has established emission standards for the combustion of biomass fuel by developing a new Code of Maryland (COMAR) regulation, COMAR 26.11.09.12 – “Standards for Biomass Fuel-Burning Equipment Greater Than 350,000 British Thermal Units (Btu)/Hour (hr) Heat Input.” The typical type of equipment that is regulated under this new regulation is a boiler, however, it also applies to process heaters and other applications. On March 25, 2015 (80 FR 15709), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland proposing approval of provisions for biomass fuel-burning equipment.

II. Summary of SIP Revision

On January 12, 2015, MDE submitted to EPA a SIP revision concerning new biomass fuel-burning provisions in COMAR 26.11.09.12 and revised provisions in COMAR 26.11.09.10 for

inclusion in the Maryland SIP. The SIP submittal also includes revisions to COMAR 26.11.09.01 (February 22, 2011, 76 FR 9650), .04 (November 3, 1992, 57 FR 49651), .06 (July 6, 2005, 70 FR 38774), .07 (November 3, 1992, 57 FR 49651), and .09 (May 1, 2003, 68 FR 23206), which were previously included in the Maryland SIP. The new regulation, COMAR 26.11.09.12, Standards for Biomass Fuel-Burning Equipment Equal to or Greater Than 350,000 Btu/hr, establishes particulate matter (PM) and nitrogen oxide (NO_x) emission limits (see Table 1) and requirements (such as compliance and record keeping and reporting) for biomass fuel-burning equipment. According to MDE, small biomass boilers will need to install PM emission controls; however the NO_x emission rates for biomass fuel-burning equipment can be achieved through efficient system design and do not require add-on pollution controls. MDE also asserted that new biomass fuel-burning equipment would be subject to standards based on federal maximum achievable control technology (MACT), generally available control technology (GACT), and best available control technology (BACT) analysis. Other specific requirements and the rationale for EPA's proposed action are explained in the NPR and the Technical Support Document (TSD) with Docket ID number EPA-R03-OAR-2015-0089 and will not be restated here. No public comments were received on the NPR.

Table 1: Emission Standards for Biomass Fuel-Burning Equipment

Heat Input Capacity (mmBtu/hr)	PM (pounds/mmBtu)	NO _x (pounds/mmBtu)
≥10	0.03-0.07	0.25-0.30
>1.5 and <10	0.1-0.23	0.30
>0.35 and ≤1.5	0.1-0.35	0.30

III. Final Action

EPA is approving a revision to the Maryland SIP pertaining to provisions for biomass fuel-burning equipment in accordance with CAA section 110. EPA's review of this material indicates

that MDE's regulations will result in reductions in PM and NO_x, helping Maryland to attain and maintain the National Ambient Air Quality Standards (NAAQS) for ozone and PM.

IV. Incorporation by Reference

In this rulemaking action, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Maryland rules regarding the definitions and requirements for biomass fuel-burning equipment in COMAR 26.11.09.01, .04, .06, .07, .09, .10, and .12. The EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or in hard copy at the EPA Region III office (see the ADDRESSES section of this preamble for more information).

V. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);

- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action pertaining to biomass fuel-burning equipment may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: May 20, 2015.

William C. Early,
Acting Regional Administrator,
Region III.

40 CFR part 52 is amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart V--Maryland

2. In §52.1070, the table in paragraph (c) is amended by revising the entries for COMAR 26.11.09.01, 26.11.09.04, 26.11.09.06, 26.11.09.07, and 26.11.09.09, and adding entries for COMAR 26.11.09.10 and 26.11.09.12 in numerical order to read as follows:

§ 52.1070 Identification of plan.

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(c)* * *

EPA-APPROVED REGULATIONS, TECHNICAL MEMORANDA, AND STATUTES IN THE MARYLAND SIP

Code of Maryland Administrative Regulations (COMAR) citation	Title/subject	State effective date	EPA approval date	Additional explanation/ citation at 40 CFR 52.1100
* * * * *				
26.11.09.01	Definitions	04/28/14	<u>[Insert date of Federal Register publication]</u> <u>[Insert Federal Register citation]</u>	Definition of “biomass” is added.
* * * * *				
26.11.09.04	Prohibition of Certain New Fuel Burning Equipment	04/28/14	<u>[Insert date of Federal</u>	Revised (C)(1).

Code of Maryland Administrative Regulations (COMAR) citation	Title/subject	State effective date	EPA approval date	Additional explanation/ citation at 40 CFR 52.1100
			<u>Register publication</u> <u>[Insert Federal Register citation]</u>	
* * * * *				
26.11.09.06	Control of Particulate Matter	04/28/14	<u>[Insert date of Federal Register publication]</u> <u>[Insert Federal Register citation]</u>	Revised (D)(1) and (D)(2).
26.11.09.07	Control of Sulfur Oxides from Fuel Burning Equipment	04/28/14	<u>[Insert date of Federal Register publication]</u> <u>[Insert Federal Register citation]</u>	Revised (B)(5).
* * * * *				
26.11.09.09	Tables and Diagrams	4/28/14	<u>[Insert date of Federal Register publication]</u> <u>[Insert Federal Register citation]</u>	Amended incorrect reference.
26.11.09.10	Requirements to Burn Used Oil and Waste Combustible Fluid as Fuel	04/28/14	<u>[Insert date of Federal Register publication]</u> <u>[Insert Federal Register citation]</u>	New regulation.
26.11.09.12	Standards for Biomass	04/28/14	<u>[Insert date</u>	New regulation.

Code of Maryland Administrative Regulations (COMAR) citation	Title/subject	State effective date	EPA approval date	Additional explanation/ citation at 40 CFR 52.1100
	Fuel-Burning Equipment Equal to or Greater Than 350,000 Btu/hr.		<u>of Federal Register publication]</u> <u>[Insert Federal Register citation]</u>	

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[FR Doc. 2015-13425 Filed: 6/8/2015 08:45 am; Publication Date: 6/9/2015]